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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,145	04/27/2001	Salil Pradhan	30014343 US	7305

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EXAMINER

ELAHEE, MD S

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/843,145	Applicant(s) PRADHAN ET AL.	
	Examiner Md S. Elahee	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-14, 20-22 and 25-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-14, 20-22 and 25-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is responsive to an amendment filed 04/25/2006. Claims 1-5,7-14,20-22 and 25-34 are pending. Claim 34 has been added.

### ***Response to Arguments***

2. Applicant's arguments in the claims 20-22, 25 and 26 Remarks have been fully considered but are moot in view of the new ground(s) of rejection which is deemed appropriate to address all of the needs at this time.

3. The arguments in the claims 1-5,7-14,27-31 and 33 Remarks have been fully considered but they are not persuasive because of the following:

With respect to Claims 1-5,7-14,27-31 and 33, the cited prior art reference Scheer (U.S. Pub. No. 2002/0161674) has priority date of provisional application's 60/263,317 filing date 01/22/2001. Therefore, the rejection of the claims in view of Rautila and Scheer will remain.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 22, 25 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Rautila et al. (U.S. Patent No. 6,549,625).

As to Claim 22, with respect to Figures 1-4, Rautila teaches a network comprising an advertiser device (fig.1, item 16, fig.3) comprising a first telecommunications device having both a short range transmitter and receiver (fig.1, item 14), and a long range telecommunication transmitter and receiver (fig.1, item 30, fig.3), a memory, and a control processor, the memory including all advertisement (fig.1; col.8, lines 5-13);

a consumer device (fig.1, item 12) comprising a second telecommunications device, having both a short range, piconet, transmitter and receiver, and a long range telecommunications transmitter and receiver, a memory and a control processor, the memory or the processor of the consumer device having an advertisement receiver which in use, is capable of receiving and storing advertisement (fig.2);

a server with database 26 [i.e., an advertisement broker device] contactable via wireless telecommunications with both the advertiser and consumer devices, the broker device being adapted to pass advertiser details to the consumer device, consumer details to the advertiser device, or both, in response to triggering (Col. 9, lines 15-20, Col. 10, lines 1-8, 55-64).

As to Claim 25, Rautila teaches the network of claim 22 in which the broker device is connectable with the advertiser device and the consumer device via long range wireless telecommunications (fig.1).

As to Claim 26, Rautila teaches the network of claim 22 wherein each the telecommunication devices includes a hybrid telephone (Col. 8, lines 49-52).

*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 2614

9. Claims 1-5,7-14,27-31,33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rautila et al. (U.S. 6,549,625) in view of Scheer (U.S. 2002/0161674).

As to Claims 1,27-30, with respect to Figures 1-4, Rautila teaches a method of advertising comprising:

broadcasting an advertisement via a short range link from an advertiser telecommunications device, 14, (Figure 1, labels 12,14);

receiving the broadcast advertisement on a consumer telecommunications device, 12, (Figure 1, label 12);

replying to the advertisement by sending a SMS message (reply message) from the consumer device to a broker device, 26 (Figure 1, label 26 and Col. 7, lines 1-10);

changing the SMS message to an acknowledgment message (reply) at the broker device (Col. 7, lines 1-10);

communicating the acknowledgement (changed reply) from the broker device to the advertiser device (Col. 7, lines 1-10).

However, Rautila does not specifically teach “changing message data of the reply at the broker device”. Scheer teaches changing message data of the reply at the broker device (page 26, paragraph 0256). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rautila to change message data of the reply at the broker device as taught by Scheer. The motivation for the modification is to have doing so in order to deliver a updated message in response to a request of the recipient whenever he needs.

As to Claim 2, Rautila teaches a method according to claim 1 in which the advertisement is broadcast to a man portable consumer device (Figure 1, label 12).

As to Claim 3, Rautila teaches a method according to claim 2 in which the consumer telecommunications device is a hand-holdable portable and pocketable device (Figure 2).

As to Claim 4, Rautila teaches a method according to claim 1 in which the advertisement is broadcast from a man portable advertiser device (Figure 1, label 14).

As to Claim 5, Rautila teaches a method according to claim 4 in which the advertiser device is a hand-holdable portable device (Figure 1, label 14).

As to Claim 7, Rautila teaches a method according to claim 1 in which the advertiser device does not include its own telecommunications address in its broadcast advertisement (Figure 3 and Col. 6, lines 48-60 and Col. 8, lines 63-67).

As to Claim 8, Rautila teaches a method according to claim 7 further including the step of including the telecommunications address of the broker device in the advertisement (Col. 7, lines 12-22).

Art Unit: 2614

As to Claim 11, Rautila teaches a method according to claim 1 in which the consumer device replies to an advertisement via long range telecommunications (Figure 1, label 42).

As to Claims 12-13, Rautila teaches a method according to claim 1 comprising sending information sources (a first part of an advertisement via the short range telecommunications), and advertisement information (a second, longer or larger part of the advertisement via short range telecommunications), the second part of the advertisement being transmitted after the consumer device has screened the first part of the advertisement and communicated with the advertisement broker device (Col. 6, line 60 through Col. 7, line 10).

As to Claim 14, Rautila teaches a method according to claim 1 comprising using a mobile telephone, personal digital assistant, or other small portable electronic devices for both the advertiser device and the consumer device, the advertiser and consumer devices both having both piconet short range and long range telecommunication capabilities (Col. 6, lines 23-47).

As to Claim 31, Rautila teaches a method according to claim 1, wherein the broker device changes the message sent by the consumer device by augmenting the message sent by the consumer device to enable modification of any follow-up message sent by the advertiser device (Col. 10, lines 1-8, 58-64 and Col. 5, lines 39-51).

As to Claim 33 is rejected for the same reasons as discussed above with respect to claim 22.



Art Unit: 2614

10. Claims 1-5,7-14,27-31,33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rautila et al. (U.S. 6,549,625) in view of Todd (U.S. 6,785,682).

As to Claims 1,27-30, with respect to Figures 1-4, Rautila teaches a method of advertising comprising:

broadcasting an advertisement via a short range link from an advertiser telecommunications device, 14, (Figure 1, labels 12,14);

receiving the broadcast advertisement on a consumer telecommunications device, 12, (Figure 1, label 12);

replying to the advertisement by sending a SMS message (reply message) from the consumer device to a broker device, 26 (Figure 1, label 26 and Col. 7, lines 1-10);

changing the SMS message to an acknowledgment message (reply) at the broker device (Col. 7, lines 1-10);

communicating the acknowledgement (changed reply) from the broker device to the advertiser device (Col. 7, lines 1-10).

However, Rautila does not specifically teach “changing message data of the reply at the broker device”. Todd teaches changing message data of the reply at the broker device (col.5, lines 58-64). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rautila to change message data of the reply at the broker device as taught by Todd. The motivation for the modification is to have doing so in order to deliver a modified message in response to a request of the recipient whenever he needs.

As to Claim 2, Rautila teaches a method according to claim 1 in which the advertisement is broadcast to a man portable consumer device (Figure 1, label 12).

As to Claim 3, Rautila teaches a method according to claim 2 in which the consumer telecommunications device is a hand-holdable portable and pocketable device (Figure 2).

As to Claim 4, Rautila teaches a method according to claim 1 in which the advertisement is broadcast from a man portable advertiser device (Figure 1, label 14).

As to Claim 5, Rautila teaches a method according to claim 4 in which the advertiser device is a hand-holdable portable device (Figure 1, label 14).

As to Claim 7, Rautila teaches a method according to claim 1 in which the advertiser device does not include its own telecommunications address in its broadcast advertisement (Figure 3 and Col. 6, lines 48-60 and Col. 8, lines 63-67).

As to Claim 8, Rautila teaches a method according to claim 7 further including the step of including the telecommunications address of the broker device in the advertisement (Col. 7, lines 12-22).

Art Unit: 2614

As to Claim 11, Rautila teaches a method according to claim 1 in which the consumer device replies to an advertisement via long range telecommunications (Figure 1, label 42).

As to Claims 12-13, Rautila teaches a method according to claim 1 comprising sending information sources (a first part of an advertisement via the short range telecommunications), and advertisement information (a second, longer or larger part of the advertisement via short range telecommunications), the second part of the advertisement being transmitted after the consumer device has screened the first part of the advertisement and communicated with the advertisement broker device (Col. 6, line 60 through Col. 7, line 10).

As to Claim 14, Rautila teaches a method according to claim 1 comprising using a mobile telephone, personal digital assistant, or other small portable electronic devices for both the advertiser device and the consumer device, the advertiser and consumer devices both having both piconet short range and long range telecommunication capabilities (Col. 6, lines 23-47).

As to Claim 31, Rautila teaches a method according to claim 1, wherein the broker device changes the message sent by the consumer device by augmenting the message sent by the consumer device to enable modification of any follow-up message sent by the advertiser device (Col. 10, lines 1-8, 58-64 and Col. 5, lines 39-51).

As to Claim 33 is rejected for the same reasons as discussed above with respect to claim 22.

11. Claims 20,21,32 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rautila et al. (U.S. 6,549,625) in view of Konishi (U.S. 5,301,273).

As to Claims 20,21,32,34 with respect to Figures 1-4, Rautila teaches a server with database 26 (server) adapted to act as an advertisement broker device adapted to receive an SMS message (one of (i) an advertisement message or (ii) a reply message to an advertisement) and to forward the received message to a mobile terminal (remote telecommunications device) (Col. 10, lines 1-8 and 55-64);

the server being adapted to validate the user (modify the received message) so as to ensure, at least initially, that the mobile user is an authorized user to receive the additional information about the goods or service or other information sources (Col. 9, lines 15-20, 56-67, Col. 10, lines 1-8, 55-63).

However, Rautila does not specifically teach the server to ensure, at least initially, that no telecommunications address of an advertiser or replier to an advertisement is passed with the message that is transmitted by the server". Konishi teaches the bridge unit (fig.1, item 20a, fig.2) [i.e., server] to ensure, at least initially, that no telecommunications address of an advertiser or replier to an advertisement is passed with the message that is transmitted by the server (abstract; col.2, lines 52-58). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rautila to incorporate the server to ensure, at least initially, that no telecommunications address of an advertiser or replier to an advertisement is passed with

the message that is transmitted by the server as taught by Konishi. The motivation for the modification is to do so in order to remove an address from a message to be transmitted so that the message can be broadcasting again.

### *Conclusion*

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Salmi (U.S. 6,947,396) teach Filtering of electronic information to be transferred to a terminal, Wen (U.S. 2001/0047297) teach Advertisement brokering with remote ad generation system and method in a distributed computer network,

Cotten (U.S. 6,330,590) teach Preventing delivery of unwanted bulk e-mail,

Mills et al. (U.S. 7,024,386) teach Credit handling in an anonymous trading system,

Alperovich et al. (U.S. 6,175,743) teach System and method for delivery of short message service messages to a restricted group of subscribers,

Miyazawa et al. (U.S. 2001/0003189) teach Client server system, data transmission method of client server system and medium recording program thereof; and

Caram et al. (U.S. 5,163,045) teach Communications network arranged to transport connection oriented and connectionless messages.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Md S. Elahee whose telephone number is (571) 272-7536. The examiner can normally be reached on Mon to Fri from 8:30am to 5:00pm.

Art Unit: 2614

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. E.

ALAM ELAHEE  
PATENT EXAMINER  
July 6, 2006



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